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**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF UTAH**

<p>OL PRIVATE COUNSEL, LLC, a Utah limited liability company,</p> <p>Plaintiff,</p> <p>v.</p> <p>EPHRAIM OLSON, an individual,</p> <p>Defendant.</p>	<p><b>DEFENDANT’S SHORT FORM DISCOVERY MOTION TO COMPEL FURTHER 30(b)(6) DEPOSITION OF OLPC AND FOR SANCTIONS</b></p> <p>Case No. 2:21-cv-00455-DBB</p> <p>Judge David Barlow Magistrate Judge Daphne A. Oberg</p>
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Pursuant to Fed. R. Civ. P. 30(b)(6) and DUCiv R 37-1, Defendant Ephraim moves to compel the further deposition of Plaintiff and for sanctions.

Topics 14 and 16 of the 30(b)(6) Notice (Exhibit A) required OLPC to produce a witness to testify to how Ephraim and Timothy Akarapanich accessed OLPC’s servers. *Id.* In OLPC’s Objection, it stated its designee would be prepared to discuss “what documents Ephraim Olson wrongfully converted and how” and “how Mr. Akarapanich obtained” of the “Converted Documents.” (Exhibit B, 11-12). But Thomas Olson (“**Thomas**”), OLPC’s designee, did not know whether the “Converted Documents” came from OLPC’s server. (Depo. 89:4-7, Exhibit C). Thomas did not know what information OLPC’s IT team investigated to determine whether the

“Converted Documents” came from OLPC’s server, in fact he did not even speak to the IT team about this topic prior to the deposition (*Id.* 89:8-90:19, 96:2-97:9). Thomas did not know whether the server could be accessed through any computer or only specific devices (*Id.* 38:14-39:22) or the name of the program that monitored server access. (*Id.* 40:21-42:7). Thomas did not know if the Security Access List for the server had been modified (*Id.* 68:12-22). Thomas could not recall how emails were accessed and whether VPN access was required (*Id.* 110:13-111:22).

Topic 17 required OLPC to produce a witness to testify regarding a declaration from Tim A. Ex. A. OLPC’s Objection stated its “witness will be prepared to discuss how OLPC obtained” the declaration.” (Ex. B, 12-13). But Thomas did not know who was present when the declaration was obtained, who drafted the declaration, or even who asked for it. (Ex. C. 204:3-205:11). Thomas also did not know the date OLPC obtained Tim A.’s phone (228:16-24) or if Tim A.’s computer was retained. (230:10-13). Thomas also did not know whether anyone at OLPC reviewed Tim A.’s cloud storage before Tim A. deleted it at OLPC’s request. (201:8-23).

Topic 1 required OLPC to produce a witness to testify regarding OLPC’s responses to discovery. OLPC stated it’s “witness will be prepared to discuss the information in OLPC’s discovery responses . . . .” (Ex. B, 3-4). Thomas did not know the source of the information logged in Exhibit 1 to OLPC’s written discovery responses (Ex. C., 69:13-71:20).

Topic 4 required OLPC to produce a designee to address each “converted document” Ephraim allegedly obtained. (Ex. A) One such document comes from a CD in the claimed “Box of Documents.” But, Thomas did not know whether Ephraim ever accessed the CD. (Ex. C, 122:22-124:17). In fact, Mr. Olson had never seen the “Box of Documents” himself (Ex. C. 176:25-177:4).

OLPC's failure to produce a prepared designee or voluntarily substitute a prepared designee necessitated this Motion. Ephraim is therefore entitled to sanctions for OLPC's failure to comply with its duties under Rule 30(b)(6) in the form of an additional 5 hours of 30(b)(6) testimony on the above topics at OLPC's sole cost and expense. Ephraim also requests fees for bringing this motion.

The DUCivR 37-1(b)(2) Certification is appended hereto as Exhibit D.

DATED this 22<sup>nd</sup> day of May, 2023.

FABIAN VANCOTT

/s/ Sarah C. Vaughn  
Scott M. Lilja  
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*Attorneys for Ephraim Olson*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22<sup>nd</sup> day of May, 2023, a true and correct copy of the foregoing was served through the court's efilings system which caused notice of filing to be sent to all counsel of record.

/s/ Sarah C. Vaughn

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